

## **REMARKS**

Upon entry of the foregoing amendment, claims 1-4 and 7 are pending in the application, with claim 1 being the independent claim. Claims 1-3 are sought to be amended. Claims 5, 6, 10, and 11 are sought to be canceled without prejudice to or disclaimer of the subject matter therein. Claims 8 and 9 were canceled by previous amendment.

Claims 1-3 have been amended to delete the non-elected subject matter, *i.e.*, to delete the subject matter of non-elected Groups II-IV set out in the Restriction Requirement dated February 26, 2006, so that the claims recite only compounds of elected Group I, those of formula I wherein X is O, and Y is CH.

Claim 1 has also been amended to correct an obvious formatting error by reformatting "1-4" in "(C1-4)alkyl" as a subscript (*i.e.*, by replacing "(C1-4)alkyl" with the correct form of the term, "(C<sub>1-4</sub>)alkyl").

These changes are believed to introduce no new matter, and their entry is respectfully requested. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

### **I. Objections to the Claims**

Claims 1-7, 10, and 11 are objected to on the ground that non-elected subject matter exists within the claims. (Office Action, at page 2, paragraph 3.)

Claims 5, 6, 10 and 11 have been canceled, rendering the rejection moot with respect to these claims.

To expedite prosecution, Applicants have amended the remaining claims to delete the non-elected subject matter, *i.e.*, to delete the subject matter of non-elected Groups II-IV set out in the Restriction Requirement issued by the Office on February 26, 2006, so that the claims recite compounds of elected Group I, those of formula I wherein X is O, and Y is CH.

Applicants believe that the objection to claims 1-7, 10, and 11 has been overcome and respectfully request that the objection be withdrawn.

### **II. Information Disclosure Statement**

According to the Office, the Information Disclosure Statement (IDS) filed by Applicants on January 20, 2006, fails to comply with 37 C.F.R. 1.98(a)(2), which requires a

legible copy of each cited foreign patent document, each non-patent literature publication or that portion which caused it to be listed, and all other information or that portion which caused it to be listed. (Office Action, at page 2, paragraph 4.)

To expedite prosecution, Applicants resubmit with the present Amendment and Reply the Information Disclosure Statement submitted on January 20, 2006, along with a copy of the cited reference.

### **III. Rejection of the Claims Under 35 U.S.C. § 112**

Claims 10 and 11 are rejected under 35 U.S.C. § 112, first paragraph, on the ground that the specification allegedly does not reasonably provide enablement for *in vivo* use of the claimed compounds. (Office Action, at pages 2 and 3, paragraph 6.) Claim 11 is further rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. (Office Action, at page 4, paragraph 8.)

Claims 10 and 11 have been canceled, rendering the rejection moot.

Applicants believe that the rejections of claims 10 and 11 under 35 U.S.C. § 112 have been overcome and respectfully request that the rejections be withdrawn.

### **IV. Double Patenting**

Claims 5 and 6 are objected to under 37 U.S.C. § 1.75 as being substantial duplicates of claims 1-3 because, according to the Office, intended use carries no patentable weight. (Office Action, at page 5, paragraph 9.)

As noted above, claims 5 and 6 have been canceled, rendering the rejection moot. Accordingly, Applicants request that this objection be withdrawn.

### **CONCLUSION**


Based on the foregoing remarks, Applicants respectfully request that the Examiner reconsider all rejections and objections and that they be withdrawn. Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 4/3/09

By 

FOLEY & LARDNER LLP  
Washington Harbour  
3000 K Street NW, Suite 500  
Washington, D.C. 20007-5143  
Telephone: (202) 672-5300  
Facsimile: (202) 672-5399

Paul D. Strain  
Attorney for Applicants  
Registration No. 47,369

Ann E. Summerfield  
Attorney for Applicants  
Registration No. 47,982